IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

R.S.A.NO.1897 OF 2007(O&M)

DATE OF DECISION:09.07.2007

SATNAM SINGH & ORS.

.....APPELLANTS

VERSUS

ARJAN SINGH

.....RESPONDENT

CORAM: HON'BLE MR. JUSTICE PERMOD KOHLI.

PRESENT: Mr. Surinder Garg,Advocate,
for the appellants.

PERMOD KOHLI,J(Oral)

This appeal arises against concurrent findings of fact recorded by the Courts below as regard the possession of the plaintiff-respondent is concerned. Plaintiff-respondent filed a suit for permanent injunction against the appellants before the trial Court , who are his sons restraining them from interfering into possession of the land measuring 9 Kanals 6 Marls except 1 Kanal 1 Marla, which is owned and possessed by Harmel Singh bearing Khasra No.3027/9-6 situated in revenue limits of Faridkot. The trial Court framed Issue No.1 Whether the plaintiff is entitled to permanent injunction?

On the basis of the evidence recorded including the documentary evidence i.e. the revenue record, the trial Court came to the conclusion that the plaintiff is in possession of the suit property and his possession is required to be protected. Accordingly, trial Court decreed the suit on 05.03.2007.

An appeal preferred before Additional District Judge, Faridkot by the appellants herein resulted in dismissal vide judgment and decree dated 25.05.2007. The Appellate Court concurred with the findings of fact recorded by the trial Court.

Learned counsel for the appellants has vehemently argued that during the pendency of appeal, an application under Order 41 Rule 27 of the Code of Civil Procedure was preferred for additional evidence and the Appellate Court allowed that application. As a result whereof a statement of plaintiff-respondent recorded in another case was produced, and pleaded that it nullifies the entries in the jamabandi. I fail to understand how a copy of the statement recorded in another case can be taken in appeal as a substantive piece of evidence that too without its proof and allowing the opportunity to rebut to other side. No reliance can be placed on this piece of evidence and this evidence is of no avail to the appellants. No substantial question of law is involved in this appeal. Their being concurrent findings of fact as regard the possession is concerned, I do not find any ground to interfere in the second appeal.

Appeal dismissed.

July 9, 2007 **(PERMOD KOHLI)**
nt **JUDGE**